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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/957,459	09/21/2001	Warren Roach	166.0001	2504
25534	7590	11/18/2003	EXAMINER	
CAHN & SAMUELS LLP 2000 P STREET NW SUITE 200 WASHINGTON, DC 20036			TO, BAOQUOC N	
		ART UNIT		PAPER NUMBER
		2172		S

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/957,459	ROACH ET AL.	
	<b>Examiner</b> Baoquoc N To	<b>Art Unit</b> 2172	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-51 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-51 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All. b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. Claims 1-51 are presented for examination.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 02/07/02. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al. (US. Patent No. 6,460,055).

Regarding on claims 1 and 16-18, Midgley teaches a computing device, a method for archiving files comprising:

Detecting (detecting) an instruction from a resident program to perform an operating on an operating file (col. 2, lines 1-14); and

Capturing (capture) the operating file temporally proximate to the operation being performed on the operating file, responsive to the detection of the instruction (col. 2, lines 1-14).

Midgley does not explicitly teach an operating file; however, Midgley teaches the source data file (col. 2, lines 10-11). An operating file is the source data file. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to include source data file in order to provide the back up and synchronization service to protect the data.

Regarding on claim 2, Midgley teaches capturing the operating file includes creating an archive file and storing the archive file in a storage location (col. 7, lines 50-55).

Regarding on claim 3, Midgley teaches the archive file includes copy of the operating file (col. 7, lines 50-55).

Regarding on claim 4, Midgley teaches the archive files includes portions of the operating file (col. 7, lines 50-55).

Regarding on claim 5, Midgley teaches the archive file includes pointers directed to one or more storage locations, wherein each of the one or more second storage locations contains at least a portion of the operating file (col. 12, lines 40-48).

Regarding on claim 6, Midgley teaches capturing the file includes saving the archive file prior to the operation being performed on the operating file (col. 8, lines 60-65).

Regarding on claim 7, Midgley teaches the file includes saving the archive file subsequent to detecting the instruction to perform the operation (col. 8, lines 60-65).

Regarding on claim 8, Midgley teaches capturing the file includes saving the archive file subsequent to the operation being performed on the operating file (col. 8, lines 60-65).

Regarding on claim 9, Midgley teaches the storage location includes a buffer(RAM) (col. 8, lines 5-10).

Regarding on claim 10, Midgley teaches the first storage location includes a storage device (server) (col. 7, lines 30-35).

Regarding on claim 11, Midgley teaches the storage device includes at least one of a group comprising a magnetic storage medium, an optical storage medium, and a solid state storage device (long term storage device 14) (col. 7, lines 30-35).

Regarding on claim 12, Midgley teaches the storage location includes a directory disposed on said storage device (directory) (col. 9, lines 40-50).

Regarding on claim 13, Midgley teaches determining whether the operating file has previously been captured prior to capturing the file (col. 2, lines 10-15).

Regarding on claim 14, Midgley teaches determining whether the operating file has previously been captured prior to capturing the file (col. 2, lines 10-15).

Regarding on claim 15, Midgley teaches the operation causes a change in the operating file (col. 2, lines 10-15).

4. Claims 19-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. (US. Patent No. 6,535,894).

Regarding on claims 19 and 31-33, Schmidt teaches in a computing device, a method for moving files from a first storage location to a second storage location comprising:

Searching (searching) a first storage location for files responsive to the occurrence of a first event (col. 8, lines 18-21);

Moving (transmitted) the files from the first storage location (server 100) to the second storage location (client location) responsive to a second event (col. 10, lines 1-22).

Schmidt does not explicitly teach the first event and second event; however, Schmidt teaches, "if the browser cannot locate the specified class in the archive" (col. 8, lines 18-20) which is considered as the first event. Schmidt also teaches, "the original archive file is created, transmitted to client computer system 102" (col. 10, lines 1-2) as the claimed second event. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to include the first and the second event as taught the Schmidt to allow the system to perform one step after another step to locate and transmit archive to the client.

Regarding on claim 20, Schmidt teaches the first storage device location includes a buffer (RAM) (col. 8, lines 5-10).

Regarding on claim 21, Schmidt teaches the second storage location includes a storage device (col. 10, lines 1-2).

Regarding on claim 22, Schmidt teaches the first event includes a message from a timer (col. 10, lines 1-2).

Regarding on claim 23, Schmidt teaches the first event includes a message from program resident on the computing device (col. 10, lines 1-2).

Regarding on claim 24, Schmidt teaches the second event includes a message from a timer (col. 10, lines 1-2).

Regarding on claim 25, Schmidt teaches the second event includes a message indicating when the second storage location is available (col. 10, lines 1-2).

Regarding on claim 26, Schmidt teaches after detecting the files, updating a database to indicate that the detected files are located in the first storage location (col. 16, lines 1-2);

Determining a destination for each of the detected files (col. 16, lines 4-10);

Moving detected files from the first storage location to an intermediate storage location (col. 16, lines 1-2);

Updating the database to indicate that the detected files are located in the intermediate storage location (col. 16, lines 10-15); and

After moving the file to the second storage location, updating the database to indicate that the files are located in the second storage location (col. 16, lines 10-15).

Regarding on claim 27, Schmidt teaches the second storage location includes a personal attached storage device (floppy disk) (col. 18, lines 50-55).

Regarding on claim 28, Schmidt teaches the second storage location includes a network attached storage device (network drives) (col. 18, lines 50-55).

Regarding on claim 29, Schmidt teaches the second storage location includes a peer-to-peer storage device (col. 18, lines 50-55).

Regarding on claim 30, Schmidt teaches the second storage location includes an Internet storage area network (col. 18, lines 50-55).

5. Claims 34-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al. (US. Patent No. 6,535,894) in view of Schmidt et al. (US. Patent No. 6,535,894).

Regarding on claim 34, Midgley teaches in a computing device, a method for archiving files comprising:

Detecting (detecting) an instruction from a resident program to perform a operation on a operating file (col. 2, lines 1-16);

Creating (create an record) an archive file from the operating file and storing the archive file (store that record) in a first storage location temporally proximate to the operation being performed on the operating file and responsive to detecting the instruction (col. 7, lines 50-55);

Midgley does not explicitly teach searching the first storage location the archive file responsive to the occurrence of a first event; and moving the archive file from the first storage location to the second storage location responsive to a second event. However, Schmidt teaches, "if the browser cannot locate the specified class in the archive file 410, it searches at the location specified by the CODE BASE parameter" (col. 8, lines 18-21). This teaches searching the archive files from the storage location. In addition, Schmidt teaches, "the original archive file is created, transmitted to client computer system 102 (see FIG. 1), and stored at client computer system" (col. 10, lines 1-3). This teaches archive file is transmitted to the client as the second storage location. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the searching and moving the archive files to the clients from Schmidt into Midgley in order to provide backup and restore files when the primary files are corrupted.

Regarding on claim 35, Midgley teaches storing the archive file includes storing the archive file prior to the operation being performed on the operating file (col. 7, lines 45-50).

Regarding on claim 36, Midgley teaches storing the archive file includes storing the archive file prior to the operation being performed on the operating file and subsequent to the operation being performed on the archive file (col. 7, lines 45-50).

Regarding on claim 37, Midgley teaches storing the archive file includes storing the archive file subsequent to the operation being performed on the operating file (col. 7, lines 45-50).

Regarding on claim 38, Midgley teaches the first storage location includes a buffer (RAM) (col. 18, lines 60-62).

Regarding on claim 39, Midgley teaches the first event includes a message from a program resident on the computing device (col. 10, lines 50-55).

Regarding on claim 40, Midgley teaches the first event includes a message from a program resident on the computing device (col. 10, lines 50-55).

Regarding on claim 41, Midgley teaches the second event includes a message from a timer (col. 10, lines 50-55).

Regarding on claim 42, Midgley teaches the second event includes a message indicating when the second storage location is available (col. 10, lines 50-55).

Regarding on claim 43, Midgley teaches the second storage location is an output buffer(RAM) (col. 18, lines 60-62).

Regarding on claims 44 and 49-51, Midgley teaches after detecting the files, updating a database to indicate that the detected files are located in the first storage location (col. 2, lines 5-15);

Determining a destination for each of the detected files (col. 2, lines 5-15);

Moving detected files from the first storage location to an intermediate storage location (col. 2, lines 5-15);

Updating the database to indicate that the detected files are located in the intermediate storage location (col. 2, lines 5-25); and

After moving the file to the second storage location, updating the database to indicate that the files are located in the second storage location (col. 2, lines 5-15).

Regarding on claim 45, Midgley teaches the second storage location includes a personal attached storage device (floppy disk) (col. 18, lines 55-62).

Regarding on claim 46, Midgley teaches the second storage location includes a network attached storage device (network drives) (col. 18, lines 55-62).

Regarding on claim 47, Midgley teaches the second storage device includes a peer-to-peer storage device (col. 9, lines 58-60).

Regarding on claim 48, Midgley teaches the second storage location includes an Internet (backup server 12) storage area network (col. 9, lines 58-60).

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is (703) 305-1949 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached at (703) 305-4393.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

- (703) 746-7238 [After Final Communication}]
- (703) 746-7239 [Official Communication]
- (703) 746-7240 [Non-Official Communication]

Hand-delivered responses should be brought to:

Crystal Park II  
2121 Crystal Drive  
Arlington, VA 22202  
Fourth Floor (Receptionist).

Baoquoc N. To  
Oct 28, 2003



SHAHID ALAM  
PRIMARY EXAMINER